

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS  
JONESBORO DIVISION**

VEODIS SILLS, III

PLAINTIFF

V.

NO: 3:07CV00127 WRW/HDY

CRAIGHEAD COUNTY  
DETENTION CENTER *et al.*

DEFENDANTS

**PROPOSED FINDINGS AND RECOMMENDATIONS**

**INSTRUCTIONS**

The following recommended disposition has been sent to United States District Judge William R. Wilson, Jr. Any party may serve and file written objections to this recommendation. Objections should be specific and should include the factual or legal basis for the objection. If the objection is to a factual finding, specifically identify that finding and the evidence that supports your objection. An original and one copy of your objections must be received in the office of the United States District Court Clerk no later than eleven (11) days from the date of the findings and recommendations. The copy will be furnished to the opposing party. Failure to file timely objections may result in waiver of the right to appeal questions of fact.

If you are objecting to the recommendation and also desire to submit new, different, or additional evidence, and to have a hearing for this purpose before the District Judge, you must, at the same time that you file your written objections, include the following:

1. Why the record made before the Magistrate Judge is inadequate.
2. Why the evidence proffered at the hearing before the District Judge (if such a hearing is granted) was not offered at the hearing before the Magistrate Judge.

3. The detail of any testimony desired to be introduced at the hearing before the District Judge in the form of an offer of proof, and a copy, or the original, of any documentary or other non-testimonial evidence desired to be introduced at the hearing before the District Judge.

From this submission, the District Judge will determine the necessity for an additional evidentiary hearing, either before the Magistrate Judge or before the District Judge.

Mail your objections and “Statement of Necessity” to:

Clerk, United States District Court  
Eastern District of Arkansas  
600 West Capitol Avenue, Suite 402  
Little Rock, AR 72201-3325

### **DISPOSITION**

Plaintiff filed this complaint (docket entry #1) on September 10, 2007. Plaintiff did not pay the \$350.00 filing fee, or file an application for leave to proceed *in forma pauperis* (“IFP”). On September 14, 2007, this Court entered an order directing Plaintiff to pay the full filing fee, or to submit a signed application for leave to proceed IFP (docket entry #2). That order warned Plaintiff that his failure to pay the filing fee, or to submit an IFP application, within 30 days, would result in the recommended dismissal of his complaint. More than 30 days has now passed, and Plaintiff has not filed an IFP application, or submitted the filing fee, and mail sent to his address of record has been returned as undeliverable (docket entries #4 & #5). Under these circumstances, the Court concludes that Plaintiff’s complaint should be dismissed without prejudice for failure to comply with Local Rule 5.5(c)(2).<sup>1</sup> See *Miller v. Benson*, 51 F.3d 166, 168 (8th Cir. 1995) (District courts have

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<sup>1</sup>Local Rule 5.5(c)(2), states: “It is the duty of any party not represented by counsel to promptly notify the Clerk and the other parties to the proceedings of any change in his or her address, to monitor the progress of the case, and to prosecute or defend the action diligently. A party

inherent power to dismiss *sua sponte* a case for failure to prosecute, and exercise of that power is reviewed for abuse of discretion).

IT IS THEREFORE RECOMMENDED THAT:

1. Plaintiff's complaint (docket entry #1) be DISMISSED WITHOUT PREJUDICE for failure to comply with Local Rule 5.5(c)(2).

2. The Court certify that an *in forma pauperis* appeal taken from the order and judgment dismissing this action be considered frivolous and not in good faith.

DATED this 22 day of October, 2007.



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UNITED STATES MAGISTRATE JUDGE

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appearing for himself/herself shall sign his/her pleadings and state his/her address, zip code, and telephone number. If any communication from the Court to a *pro se* plaintiff is not responded to within thirty (30) days, the case may be dismissed without prejudice. Any party proceeding *pro se* shall be expected to be familiar with and follow the Federal Rules of Civil Procedure."